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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

HEALTHPORT CORPORATION, a
Delaware corporation,

Plaintiff/Counter-Defendant,

v.

TANITA CORPORATION OF AMERICA,
an Illinois corporation,

Defendant/Counter-Claimant.

ORDER

Civil No. 06-419-PK

HAGGERTY, Chief Judge:

Magistrate Judge Papak referred to this court a Findings and Recommendation [130] in this matter. The Findings and Recommendation recommends denying plaintiff's motion for summary judgment, granting defendant's motion for summary judgment, and entering judgment and an injunction in this matter. Both parties have filed objections.


When a party objects to any portion of a Findings and Recommendation, the district court must conduct a de novo review. 28 U.S.C. § 636(b)(1)(B); *McDonnell Douglas Corp. v.*

Commodore Bus. Mach. Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Here, the court has performed a de novo review, evaluated the Findings and Recommendation, the objections, and the entire record. Based upon that review, the court agrees with Judge Papak's Findings and Recommendation.¹

The court adopts the Findings and Recommendation [130]. Defendant's Motion for Summary Judgment [~~99~~] is GRANTED and plaintiff's Motion for Summary Judgment [~~100~~] is DENIED. Healthport Corporation is ORDERED to remove the ELG misrepresentations from its web sites. Healthport Corporation and its officers, directors, agents, employees, and all persons acting in concert with it are PERMANENTLY ENJOINED from publishing or disseminating in any form any advertising or promotional material that contains representations to the effect that the ELG: (1) is the only patented body composition analyzer or metabolic analyzer in the United States or abroad; (2) is patented for unequalled accuracy and validity; (3) is the only body composition analyzer or metabolic analyzer patented for unequalled accuracy and validity; or (4) is unequalled in accuracy and validity as compared to other body composition analyzers. Further, Healthport Corporation and its officers, directors, agents, employees, and all persons acting in concert with it are PERMANENTLY ENJOINED from publishing or disseminating in any form any advertising or promotional material that contains false representations about the credentials of Richard Wooten.

IT IS SO ORDERED.

DATED this 23 day of May, 2008.


Ancer L. Haggerty
United States District Judge

¹ As part of this decision, defendant's other pending objection [106] is overruled.